

CUSTOMS DIRECTIVE

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CUSTOMS DIRECTIVE NO. 51550-004A

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SUBJECT: ADMINISTRATIVELY UNCONTROLLABLE OVERTIME (AUO) PAY

1. **PURPOSE.** To provide guidance for the approval, certification, and payment of Administratively Uncontrollable Overtime (AUO) pay to U.S. Customs Service employees who occupy positions that have been officially approved for this form of annual premium pay.

2. **POLICY.**

2.1 AUO will be paid to employees in positions requiring substantial amounts of irregular overtime work, when the hours of such work cannot be scheduled or controlled administratively and employees are held responsible for recognizing, generally without supervision, circumstances which require them to remain on or return to duty outside regularly scheduled duty hours.

2.2 Managers and supervisors may also identify and direct additional irregular overtime work that is compensable with AUO.

2.3 AUO is determined as an appropriate percentage of not less than 10 percent and not more than 25 percent of an employee's rate of basic pay, as that rate is defined in 5 Code of Federal Regulations (CFR) 550.103.

2.4 The authorization to approve AUO is based upon management's discretion and is not a guaranteed compensation entitlement.

2.5 When appropriate and ordered or approved, employees receiving AUO are also entitled to receive: a) regularly scheduled overtime pay under 5 U.S.C. 5542(a); b) regularly scheduled night premium pay under 5 U.S.C. 5545(a); c) regularly scheduled Sunday premium pay under 5 U.S.C. 5546(a) for non-overtime work on Sunday; and d) holiday premium pay under 5 U.S.C. 5545(b) for ordered or approved non-overtime work on a holiday which corresponds to their regular tours of duty.

2.6 Employees receiving AUO are not entitled to receive: a) regularly scheduled standby duty pay under 5 U.S.C. 5545(c); b) law enforcement availability pay under 5 U.S.C. 5545(a); c) compensatory time off in lieu of pay for irregular or occasional work under 5 U.S.C. 5443; d) hazardous duty pay under 5 U.S.C. 5545(d) for the same irregular overtime hours credited toward AUO. Overtime, night, holiday, or Sunday work paid under any statute other than subchapter V of chapter 55 of Title 5 is not a basis for credit toward payment of AUO.

2.7 Receipt of AUO is subject to the biweekly premium pay limitations under 5 U.S.C. 5547 (a) and (c)(2).

2.8 Annual certification reviews of employees occupying positions approved for AUO will be performed at the locality where the irregular overtime work is performed and any necessary rate adjustments will be initiated by a personnel action. Field Communications Management Division employee certifications will be maintained at the National Law Enforcement Communications Center.

2.9 At 5-year intervals, the Deputy Commissioner will designate a special team of Customs officials who will be responsible for conducting an independent review and audit of AUO timekeeping records as well as rate and certification determinations of employees receiving AUO. Upon completion of the review, a report of findings and recommendations will be made to the Deputy Commissioner.

2.10 Receipt of AUO does not entitle an employee to early law enforcement retirement under the provisions of 5 U.S.C. 8336(c) or 8412(d).

2.11 AUO will not be approved for employees in part-time status.

2.12 AUO will not be approved for employees assigned to an alternate work schedule (AWS).

3. AUTHORITIES. 5 U.S.C. 5545(c)2; 5 CFR 550.151; and Treasury Personnel Management Manual, Chapter 550, Part 10.

4. DEFINITIONS.

4.1 AUO means premium compensation paid on an annual percentage basis, rather than an hourly basis, for substantial amounts of unscheduled irregular overtime work. For recipients of AUO, it is the only premium pay they may receive for irregular overtime work under Title 5. The AUO percentage rates range from 10 to 25 percent of an employee's rate of basic pay. AUO pay is not basic pay for severance pay purposes.

4.2 Rate of Basic Pay means the rate of pay fixed by law or administrative action for the positions held by an employee, and includes: a) locality pay adjustments; b) applicable special salary rates; c) worldwide special salary rates for law enforcement officers GS-3 through GS-10; d) special law enforcement salary adjustments; e) applicable interim geographic adjustment continued rates of pay; or f) similar provisions of law, before any deductions and exclusive of additional pay of any other kind.

4.3 Administrative Workweek in the Department of the Treasury means the 7 consecutive calendar days beginning at 0001 hours on Sunday and ending at 2400 hours on the following Saturday.

4.4 Regularly Scheduled Administrative Workweek means the period within the 7-day workweek when an employee's daily and weekly non-overtime tours of duty are scheduled, and will also include any specific periods of regularly scheduled overtime work which may be required. These non-overtime tours of duty and specific periods of regularly scheduled overtime work must be scheduled in advance of Sunday of the 7-day administrative workweek. Irregular overtime compensated with AUO cannot, by its nature, be scheduled in advance of the 7-day workweek.

4.5 Regularly Scheduled Overtime Work means overtime work on specific days and hours of those days which is scheduled before Sunday of the 7-day administrative workweek.

4.6 Unscheduled Irregular Overtime Work is overtime work of a non-routine nature which is required after the workweek has started, i.e., after Sunday of the 7-day workweek, and is performed during the same workweek. Generally, this work is driven by an administratively uncontrollable event and, for recipients of AUO, it is usually self-initiated, although managers and supervisors may direct additional irregular overtime work during the course of the workweek. Because of its highly irregular and non-routine nature, this form of overtime cannot be scheduled prior to Sunday of the 7-day workweek and cannot be consistently performed during the same hours on regular or nonregular workdays.

5. RESPONSIBILITIES.

5.1 The Assistant Commissioner, Office of Human Resources Management (HRM) is responsible for authoritative policy guidance and approval of positions for AUO coverage. The Assistant Commissioners, Offices of Investigations (OI) and Internal Affairs (IA), have policy oversight within their respective organizations for AUO management controls, certification reviews, and payments. Policy oversight includes review and analyses of the effectiveness of: a) the validity of requests for AUO; b) local management controls exercised over the review and certification requirements for continuation of AUO; c) accurate and complete documentation justifying AUO; and d) reporting activities which may be required or deemed necessary.

5.2 Special Agents in Charge (OI), Regional Special Agents in Charge (IA), Executive Directors, Headquarters (HQ) Division Directors (OI and IA), Customs Attachés, Air and Marine Branch Chiefs; and the Director, Air and Marine Interdiction Coordination Center (AMICC) are responsible for local policy implementation, coverage, and administration of AUO for staff members under their direction. They may delegate all or a portion of this responsibility to supervisory levels under their direction.

5.3 Supervisors are responsible for: a) certifying newly hired or transferred employees for AUO; b) reviewing and approving or disapproving monthly AUO reports, Customs Form (CF) 203, submitted by employees to ensure that reported irregular overtime hours were performed, are sufficiently documented, and are eligible for credit toward AUO; c) discontinuing AUO when it is no longer appropriate or when an employee is not able to perform the minimum number of irregular overtime hours for

certification, because of extended illness, lengthy details, temporary reassignments, or other circumstances which are not consistent with the needs of the Customs Service for substantial amounts of irregular overtime work; d) reviewing and recertifying positions for AUO in January of each calendar year; e) reviewing and, if necessary, adjusting the AUO rates at the beginning of each quarter or at any time that it is clear the AUO rate has changed for the balance of the quarter; f) discontinuing AUO at any time if the employee is not meeting the requirements to continue AUO; and g) ensuring that employees receiving AUO are occupying positions which have been officially approved for this form of annual premium pay.

5.4 Employees receiving AUO are accountable for: a) remaining on or returning to duty when required by circumstances which qualify for receipt of AUO; b) performing additional irregular overtime work which may be directed by supervisors and managers; c) submitting monthly AUO reports (CF 203) which document in sufficient detail the non-routine, irregular overtime work performed in order to justify supervisory approval and establish a basis for oversight review and audit; and d) signing monthly AUO reports and certification documents.

6. PROCEDURES.

6.1 The Assistant Commissioners (OI, IA, and HRM), shall issue a uniform procedures handbook for the review and analyses of: a) requests for AUO coverage; b) initial and annual certification requirements; c) local management controls of the AUO program; and d) reporting or auditing activities which may be required or deemed appropriate.

6.2 Procedures will specify critical AUO requirements such as: a) monthly submissions of CF 203 reporting types and amounts of irregular overtime worked; b) supervisory reviews of monthly CF 203 submissions to determine eligibility of work claimed, c) supervisory quarterly reviews to determine if there is a continued need for AUO, along with potential rate adjustments; and d) supervisory annual reviews to determine continued need for AUO, potential rate adjustments, and annual certifications.

7. MEASUREMENT. All employees receiving AUO must be occupying positions which have been approved for this premium pay. At least 98 percent of the employees receiving AUO, along with appropriate supervisors, must be able to execute the required certifications that they have met the quarterly averages of unscheduled, irregular, overtime duty necessary for their rates of AUO.

Commissioner of Customs